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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09 846,800	04 30 2001	Cathy A. Lynn	LYN01-002P	5176

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LOS ANGELES, CA 90067

EXAMINER
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LAWRENCE JR. FRANK M

ART UNIT	PAPER NUMBER
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1724

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DATE MAILED: 01/24/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/846,800

Applicant(s)

LYNN, CATHY A.

Examiner

Frank M. Lawrence

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

#### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 4 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 9 contains the recitation "wherein said attaching means is a mounting means is as substantially "U" shaped member," which is unclear because it appears that the mounting means is being referred to as the attaching means instead of as a different part of the device.

3. Regarding claim 4, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

#### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 11 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by West (5,572,800; figures; col. 3, lines 17-30).

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6. West ('800) teaches an air freshener dispensing attachment for a hair dryer, comprising a fragrance element (40) having a frame (42,44,45) that is inserted into a cylindrical body (20) for attachment to a hair dryer.

7. Claims 1, 2, 5, 7, 11 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Russo (5,649,370; figures; col. 2, line 28 to col. 3, line 38).

8. Russo ('370) teaches a fragrance dispenser for a hair dryer, comprising a frame member (52) for holding a porous scent cartridge (44), and a hook and loop attachment member (40) for fixing the frame to a hair dryer, wherein the scent cartridge includes a scented layer (46) maintained between first and second porous sides.

9. Claims 1, 2, 4, 5, 7-10, 13-16 and 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by McDowell (5,273,690; figures; col. 2, line 59 to col. 3, line 36; col. 3, line 66 to col. 4, line 21).

10. McDowell ('690) teaches an air freshener device for a ventilation duct, comprising a porous scent member including scent strips (37) maintained between fabric layers (38,41) which are held in a frame (36), a rigid second "U-shaped" frame (35) for insertion of the scent member, and hook and loop attachment means (45,46) for fixing the frames to the opening of a vent duct having slotted openings, wherein the second frame (35) forms a peripheral wall extending from the vent duct opening and having an end aperture for receiving the scent member. The "U" shape of the second frame (35) provides retaining means that transverse opposing portions of the wall for maintaining the scent member as described in claim 20.

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*Claim Rejections - 35 USC § 103*

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over McDowell ('690) in view of Vick et al. (5,698,166; figures; col. 1, lines 46-52; col. 3, lines 8-25).

13. McDowell ('690) discloses all of the limitations of the claim except that scent is applied to the scent member by immersion in a liquid composition that is solidified upon withdrawal.

Vick et al. ('166) disclose a scented air freshening device for a filter comprising a porous substrate (11) that contains a solid residue (12), resulting from drying a fragrant liquid solution that is applied to the substrate. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the device of McDowell ('690) by substituting the scent members of Vick et al. ('166) in order to provide a scent member that does not interfere with the flow of air through the a circulation system.

14. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over McDowell ('690) in view of Ward (5,087,273; figures; col. 3, line 62 to col. 4, line 63).

15. McDowell ('690) discloses all of the limitations of the claim except that the scent element is spherical. Ward ('273) discloses an air freshener for attachment to a filter of a ventilation duct, comprising a packet of particulate beads. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the device of McDowell ('690) by including the scented beads of the Ward ('273) device in order to provide a fragrant

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material that has increased surface area, allowing for improved volatilization and greater distribution of scent into an air circulation system with increased longevity of the device.

16. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over McDowell ('690) in view of Frigon (4,563,333; figures; col. 2, lines 18-25).

17. McDowell ('690) discloses all of the limitations of the claims except that the frame is made of cardboard or plastic. Frigon ('333) discloses a deodorizing fitting for air filters, comprising a cardboard frame (12) for enclosing a scent material that is attached to a filter in a ventilation system. Although McDowell ('690) does not disclose a specific material for the frame, it is submitted that one having ordinary skill in the art at the time of the invention would have been motivated to modify the frame to include any appropriately rigid material, such as the cardboard frame of Frigon ('333) in order to provide a frame that will effectively mount the scent member to a filter or opening of a ventilation system while being simple and economical to manufacture.

### *Conclusion*

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The reference to Colon (5,460,787; figures) discloses a scented card held by a frame for attachment to the opening of a ventilation system. The references to Kung (5,240,487; figures) and Borrell (5,704,832) each disclose a scented member disposed within a frame for attachment to the opening of a ventilation system. The references to Egelstad (4,835,879; figures; abstract) and Wonka et al. (5,701,681; abstract; figures) each disclose a hair dryer having a scented member or filter attached to the airflow duct. The references to Taylor (4,257,787; figures; abstract), Canale (5,820,791; figures; abstract), Swaim (4,082,073; figures),


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and Petroff (4,065,262; figures; abstract) each disclose a framed scent-dispensing device for attachment to a filter that is used in a ventilation system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank M. Lawrence whose telephone number is 703-305-0585. The examiner can normally be reached on Mon-Thurs 7:30-5:00; alternate Fridays 7:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Simmons can be reached on 703-305-1972. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7718 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.

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January 15, 2002

